



Agency Legislative Proposal - 2022 Session

Document Name: OCME Statute Proposals 9-15-2021

(If submitting electronically, please label with date, agency, and title of proposal – 092621_SDE_TechRevisions)

State Agency: Office of the Chief Medical Examiner

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Lead agency division requesting this proposal: OPM

Agency Analyst/Drafter of Proposal: James Gill

Title of Proposal: Updates of Statutes affecting the OCME

Statutory Reference: Connecticut General Statutes 19a-401 +

Proposal Summary:

Update several statutes ("housekeeping") relating to the Office of the Chief Medical Examiner. Many of these updates reflect current practice. There are no new costs associated with these changes and there may be a small increase in revenue.

PROPOSAL BACKGROUND

◇ **Reason for Proposal**

These changes reflect current practice and streamline, clarify, and update some processes and one fee.

◇ **Origin of Proposal**

☒ **New Proposal**

☐ **Resubmission**

New Proposal



PROPOSAL IMPACT

◇ **AGENCIES AFFECTED** *(please list for each affected agency)*

Agency Name: None Agency Contact (<i>name, title, phone</i>): N/A Date Contacted: N/A Approve of Proposal <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Talks Ongoing
Summary of Affected Agency's Comments N/A
Will there need to be further negotiation? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

◇ **FISCAL IMPACT** *(please include the proposal section that causes the fiscal impact and the anticipated impact)*

Municipal <i>(please include any municipal mandate that can be found within legislation)</i> None
State There may be an increase of revenue of a few thousand dollars per year.
Federal None
Additional notes on fiscal impact None

◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

None

◇ **EVIDENCE BASE**

Not applicable



Proposed Statute changes affecting the Office of the Chief Medical Examiner (OCME) with Justifications

10/05/21

[Text] = deleted, Text = inserted

#1 Proposed Change:

Connecticut General Statutes 19a-401 – Commission on Medicolegal Investigations. Regulations

(a) There is established a Commission on Medicolegal Investigations, as an independent administrative commission, consisting of nine members: Two full professors of pathology, two full professors of law, a member of the Connecticut Medical Society, a member of the Connecticut Bar Association, two members of the public (one a licensed funeral director), selected by the Governor, and the Commissioner of Public Health, or the commissioner's designee. The Governor shall appoint the two full professors of pathology and the two full professors of law from recommendations submitted by [a panel of not less than four such professors in the field of medicine and four such professors in the field of law recommended by a committee composed of] the deans of the recognized schools and colleges of medicine and of law in the state of Connecticut; the member of the Connecticut Medical Society [from a panel of not less than three members of that society as] recommended by the council of that society; [and] the member of the Connecticut Bar Association [from a panel of not less than three members of that association] recommended by the board of governors of that association; and the funeral director as a member of the Connecticut Funeral Directors Association recommended by the board of directors of that association. The chair of the commission shall assist in coordinating the submissions of the nominees to the Governor. [Initially, one professor of pathology, one professor of law, the member of the Connecticut Medical Society, and one member of the public shall serve for six years and until their successors are appointed, and one professor of pathology, one professor of law, the member of the Connecticut Bar Association and one member of the public shall serve for three years, and until their successors are appointed.] All appointments to full terms [subsequent to the initial appointments] shall be for six years. Vacancies shall be filled for the expiration of the term of the member being replaced in the same manner as original appointments. Members shall be eligible for reappointment under the same conditions as are applicable to initial appointments. The commission shall elect annually one of its members as chair[man] and one as vice chair[man]. Members of the commission shall receive no compensation but shall be reimbursed for their actual expenses incurred in service on the commission. The commission shall meet at least once each year and more often as its duties require, upon the request of any two members and shall meet at least once each year with those persons and groups that are affected by commission policies and procedures. The commission shall adopt its own rules for the conduct of its meetings.



(b) The commission shall adopt regulations, in accordance with chapter 54, as necessary or appropriate to carry out effectively the administrative provisions of this chapter.

Justification for #1:

The recommendations update, simplify, and streamline the current statute. Historically, one of the public members has been a licensed funeral director. Since funeral directors are an important constituent of the OCME, it is important to codify their membership in the Commission. Language regarding the staggered terms of the appointees used when the Commission was first formed, is no longer relevant. In the past there have been delays in refilling Commission positions which has led to citations by the public auditor, these statute changes will help positions to be refilled more efficiently by allowing the chair to facilitate the submission of nominations.

#2 Proposed Change:

Connecticut General Statutes 19a-403 – Office of the Chief Medical Examiner. Fees. Regulations

(a) The Office of the Chief Medical Examiner is established to be operated under the control and supervision of the commission. The expenses of the commission and of operating said office shall be paid by the state out of funds appropriated for the purpose. The office shall be directed by a Chief Medical Examiner who shall be appointed by the commission. His office shall be located at a medical school in this state. The Chief Medical Examiner or any member of the professional staff of the Office of the Chief Medical Examiner who is summoned to give expert testimony in a civil action in his capacity as the Chief Medical Examiner or a member of the office shall be allowed and paid a witness fee of [five] four hundred dollars for each hour [day] or portion thereof the Chief Medical Examiner or such staff member is required to attend court. Such fee shall be taxed as a part of the costs of the action and be paid by the party requesting the appearance, and any such fee received shall be deposited in the General Fund except no fee shall be imposed if the requesting party is the state.

Justification for #2:

The increased fee is commensurate with current expert testimony fees. The current \$500 per day does not fairly compensate the State for lost productivity of the employee who is required to attend court in a civil matter. There is no charges for testimony in any criminal matters or for any other State agency that needs our assistance. In addition, in civil cases, the first two hours are not billed (pro bono). This fee was last increased in 1993 (from \$300 to \$500 per day). In a typical year, we bill for this once or twice a year. The current market rate for forensic pathology consultation is \$400-750/hr.



#3 Proposed Change:

Connecticut General Statutes 19a-408 – Disposition of body after proceedings

After the termination of all proceedings for which the body is required by the Chief Medical Examiner, the Deputy Chief Medical Examiner, an associate medical examiner or an authorized assistant medical examiner, the body shall be delivered to a person or persons entitled by law to receive the same; but, if there are no such persons who will take charge of and dispose of the body, then to the proper authorities of the town in which the body is lying, whose duty it shall be to dispose of it. Whenever the deceased person has not left property sufficient to defray the expenses of disposition of the body, the same shall be paid by such town. The Office of the Chief Medical Examiner may take custody and coordinate the disposition (cremation or burial) of such unclaimed remains. Prior to proceeding to disposition for an unclaimed person, the Office of the Chief Medical Examiner shall wait 21 days from the time of pronouncement of death and make a reasonable effort (a "reasonable effort" includes engaging the services of the law enforcement agency of the town of death or residence) to locate and contact any relatives of the deceased person. A funeral director handling the disposition of such unclaimed person shall notify the Commission of Social Services in accordance with 17b-84 and 17b-131 (Funeral and burial allowances) for reimbursement. The cremation certificate fee will be waived in such instances.

Justification for #3:

This reflects current practice and establishes a specific waiting period and process.

#4 Proposed Change:

Connecticut General Statutes 19a-409 – Issuance of death certificate

The Office of the Chief Medical Examiner shall complete its investigation where reasonably possible within thirty days. Upon completion of the investigation, the Chief Medical Examiner, Deputy Chief Medical Examiner, an associate medical examiner, an authorized assistant medical examiner or a pathologist designated by the Chief Medical Examiner shall file a death certificate, or a certificate supplementing that already filed, with the registrar of vital statistics for the town in which the death occurred, if known, or, if not known, for the town in which the body was found, or Such death certificate or supplemental certificate shall be filed through an electronic death registration system whenever such system is available. If the deceased is unidentified, fingerprints of both hands and a photograph of the body, provided mortification has not proceeded so far or the nature of the cause of death was not such as to make identification impossible, shall be [sent] done by said office. [to such registrar of vital statistics and copies shall be sent to the Department of Public Health and to



the Division of State Police within] Fingerprints shall be sent to the Department of Emergency Services and Public Protection.

Justification for #4:

This reflects current practice for identifications and the anticipated use of an electronic death registration system.

#5 Proposed change (non-OCME statute):

Connecticut General Statutes Title **19A. Public Health and Well-Being § 19a-323**. Cremation authorized. Cremation certificate or permit for final disposition required. Fee payable in certain cases

- (a) The body of any deceased person may be disposed of by incineration or cremation in this state or may be removed from the state for such purpose.
- (b) If death occurred in this state, the death certificate required by law shall be filed with the registrar of vital statistics for the town in which such person died, if known, or, if not known, for the town in which the body was found. The Chief Medical Examiner, Deputy Chief Medical Examiner, associate medical examiner, an authorized assistant medical examiner or other authorized designee shall complete the cremation certificate, stating that such medical examiner or other authorized designee has made inquiry into the cause and manner of death and is of the opinion that no further examination or judicial inquiry is necessary. The cremation certificate shall be submitted to the registrar of vital statistics of the town in which such person died, if known, or, if not known, of the town in which the body was found, or with the registrar of vital statistics of the town in which the funeral director having charge of the body is located. Upon receipt of the cremation certificate, the registrar shall authorize such certificate, keep such certificate on permanent record, and issue a cremation permit, except that if the cremation certificate is submitted to the registrar of the town where the funeral director is located, such certificate shall be forwarded to the registrar of the town where the person died to be kept on permanent record. If a cremation permit must be obtained during the hours that the office of the local registrar of the town where death occurred is closed, a subregistrar appointed to serve such town may authorize such cremation permit upon receipt and review of a properly completed cremation permit and cremation certificate. A subregistrar who is licensed as a funeral director or embalmer pursuant to chapter 385, 1 or the employee or agent of such funeral director or embalmer shall not issue a cremation permit to himself or herself. A subregistrar shall forward the cremation certificate to the local registrar of the town where death occurred, not later than seven days after receiving such certificate. The estate of the deceased person, if any, shall pay the sum of one hundred fifty dollars for the issuance of the cremation certificate, provided the Office of the Chief Medical Examiner shall not assess any fees for costs that are associated with the cremation of a stillborn fetus. [Upon request of the Chief Medical Examiner, the Secretary of the Office of Policy and Management may waive payment of such cremation certificate fee.] No cremation certificate shall be required for a permit to cremate the remains of bodies pursuant to section 19a-270a. When the cremation



certificate is submitted to a town other than that where the person died, the registrar of vital statistics for such other town shall ascertain from the original removal, transit and burial permit that the certificates required by the state statutes have been received and recorded, that the body has been prepared in accordance with the Public Health Code and that the entry regarding the place of disposal is correct. Whenever the registrar finds that the place of disposal is incorrect, the registrar shall issue a corrected removal, transit and burial permit and, after inscribing and recording the original permit in the manner prescribed for sextons' reports under section 7-66, shall then immediately give written notice to the registrar for the town where the death occurred of the change in place of disposal stating the name and place of the crematory and the date of cremation. Such written notice shall be sufficient authorization to correct these items on the original certificate of death. The fee for a cremation permit shall be five dollars and for the written notice one dollar. The Department of Public Health shall provide forms for cremation permits, which shall not be the same as for regular burial permits and shall include space to record information about the intended manner of disposition of the cremated remains, and such blanks and books as may be required by the registrars.

Justification for #5:

With the electronic billing system component of the new electronic death registration system (EDRS), the OCME will no longer be able to credit previously paid cremation fees (waivers). The cremation certificate fee paid to the OCME goes to the State's general fund and cannot be reimbursed. In 2018, the state refunded approximately \$20,000 in cremation waivers.

The CGS 17b-84 and 17b-131 outlines funeral and burial allowances for indigent persons and beneficiaries of state assistance by DSS. These statute changes would streamline the process with DSS handling all reimbursements as per current statute. Funeral directors who handle unclaimed remains for OCME also apply for this assistance.

#6 Proposed change:

Connecticut General Statutes 19a-403 – Office of the Chief Medical Examiner Powers and duties of Chief Medical Examiner. Certified pathologists. Autopsies

(a) The Chief Medical Examiner shall investigate all human deaths in the following categories: (1) Violent deaths, whether apparently homicidal, suicidal or accidental, including but not limited to deaths due to thermal, chemical, electrical or radiational injury and deaths due to criminal abortion, whether apparently self-induced or not; (2) sudden or unexpected deaths not caused by readily recognizable disease; (3) deaths under suspicious circumstances; (4) deaths of persons whose bodies are to be cremated, buried at sea or otherwise disposed of so as to be thereafter unavailable for examination; (5) deaths related to disease resulting from employment or to accident while employed; (6) deaths related to disease which might constitute a threat to public health. (7) any other death, not clearly the result of natural causes, that occurs while the deceased person is in the custody of a peace officer or a law enforcement agency or the Commissioner of Correction. The Chief Medical Examiner may require autopsies in connection with deaths in the preceding categories when



it appears warranted for proper investigation and, in the opinion of the Chief Medical Examiner, the Deputy Chief Medical Examiner, an associate medical examiner or an authorized assistant medical examiner, an autopsy is necessary. The autopsy shall be performed at the Office of the Chief Medical Examiner or by a designated pathologist at a community hospital. Where indicated, the autopsy shall include toxicologic, histologic, microbiologic, molecular, and serologic examinations and select retention as needed of tissues/organs/fluids for diagnostic purposes as determined by the medical examiner. If a medical examiner has reason to suspect that a homicide has been committed, the autopsy shall be performed at the Office of the Chief Medical Examiner [or by a designated pathologist in the presence of at least one other designated pathologist if such other pathologist is immediately available]. A detailed description of the findings of all autopsies shall be written or dictated during their progress. The findings of the investigation at the scene of death, the autopsy and any toxicologic, histologic, molecular, serologic and microbiologic examinations and the conclusions drawn therefrom shall be filed in the Office of the Chief Medical Examiner.

Justification for #6:

The standard of care in forensic pathology is to retain certain organ/tissue/fluid samples for a period of time after the autopsy (at least 1 year). This statute change will clarify that this is usual practice for diagnostic purposes. All suspected homicides are and should be performed at the OCME. This is the current practice. Molecular testing is now commonplace.

#7 Proposed (Non-OCME Statute):

Chapter 319s - Financial Assistance

Section 17b-84 - (Formerly Sec. 17-82i). Funeral and burial allowance for state supplement or temporary family assistance program beneficiaries. Reductions. Disclosure of information regarding liquid assets.

(a) Upon the death of any beneficiary under the state supplement or the temporary family assistance program, the Commissioner of Social Services shall order the payment of a sum not to exceed one thousand [two] three hundred and fifty dollars as an allowance toward the funeral and cremation or burial expenses of such decedent. The payment for funeral and cremation or burial expenses shall be reduced by (1) the amount in any revocable or irrevocable funeral fund, (2) any prepaid funeral contract, (3) the face value of any life insurance policy owned by the decedent that names a funeral home, cemetery or crematory as a beneficiary, (4) the net value of all liquid assets in the decedent's estate, and (5) contributions in excess of three thousand four hundred dollars toward such funeral and burial expenses from all other sources, including friends, relatives and all other persons, organizations, agencies, veterans' programs and other benefit programs.

Notwithstanding the provisions of section 17b-90, whenever payment for funeral, burial or cremation expenses is reduced due to liquid assets in the decedent's estate, the commissioner may disclose information



concerning such liquid assets to the funeral director, cemetery or crematory providing funeral, burial or cremation services for the decedent.

Sec. 17b-131. (Formerly Sec. 17-286). Funeral and burial allowance for indigent persons or beneficiaries under the state-administered general assistance program. Reductions. Disclosure of information regarding liquid assets. (a) When a person in any town, or sent from such town to any licensed institution or state humane institution, dies or is found dead therein and does not leave sufficient estate and has no legally liable relative able to pay the cost of a proper funeral and burial, or upon the death of any beneficiary under the state-administered general assistance program, the Commissioner of Social Services shall give to such person a proper funeral and burial or cremation, and shall pay a sum not exceeding one thousand [two] three hundred and fifty dollars as an allowance toward the funeral expenses of such decedent. Said sum shall be paid, upon submission of a proper bill, to the funeral director, cemetery or crematory, as the case may be. Such payment for funeral and cremation or burial expenses shall be reduced by (1) the amount in any revocable or irrevocable funeral fund, (2) any prepaid funeral contract, (3) the face value of any life insurance policy owned by the decedent that names a funeral home, cemetery or crematory as a beneficiary, (4) the net value of all liquid assets in the decedent's estate, and (5) contributions in excess of three thousand four hundred dollars toward such funeral and burial expenses from all other sources including friends, relatives and all other persons, organizations, agencies, veterans' programs and other benefit programs. Notwithstanding the provisions of section 17b-90, whenever payment for funeral, burial or cremation expenses is reduced due to liquid assets in the decedent's estate, the commissioner may disclose information concerning such liquid assets to the funeral director, cemetery or crematory providing funeral, burial or cremation services for the decedent.

Justification for #7:

The disposition may be burial or cremation and this change clarifies the process and is in line with the inclusion of "cremation" later in the Statute. The current reimbursement maximum is \$1350.

#8 Proposed (Non-OCME Statute):

Sec. 20-9. Who may practice medicine or surgery. (a) No person shall, for compensation, gain or reward, received or expected, diagnose, treat, operate for or prescribe for any injury, deformity, ailment or disease, actual or imaginary, of another person, nor practice surgery, until he has obtained such a license as provided in section 20-10, and then only in the kind or branch of practice stated in such license.

(b) The provisions of this chapter **shall not apply** to:

- (1) Dentists while practicing dentistry only;
- (2) Any person in the employ of the United States government while acting in the scope of his employment;
- (3) Any person who furnishes medical or surgical assistance in cases of sudden emergency;



- (4) Any person residing out of this state who is employed to come into this state to render temporary assistance to or consult with any physician or surgeon who has been licensed in conformity with the provisions of this chapter;
- (5) Any physician or surgeon residing out of this state who holds a current license in good standing in another state and who is employed to come into this state to treat, operate or prescribe for any injury, deformity, ailment or disease from which the person who employed such physician, or the person on behalf of whom such physician is employed, is suffering at the time when such nonresident physician or surgeon is so employed, provided such physician or surgeon may practice in this state without a Connecticut license for a period not to exceed thirty consecutive days;
- (6) Any person rendering service as (A) an advanced practice registered nurse if such service is rendered in accordance with section 20-87a, or (B) an advanced practice registered nurse maintaining classification from the American Association of Nurse Anesthetists if such service is under the direction of a licensed physician;
- (7) Any nurse-midwife practicing nurse-midwifery in accordance with the provisions of chapter 377;
- (8) Any podiatrist licensed in accordance with the provisions of chapter 375;
- (9) Any Christian Science practitioner who does not use or prescribe in his practice any drugs, poisons, medicines, chemicals, nostrums or surgery;
- (10) Any person licensed to practice any of the healing arts named in section 20-1, who does not use or prescribe in his practice any drugs, medicines, poisons, chemicals, nostrums or surgery;
- (11) Any graduate of any school or institution giving instruction in the healing arts who has been issued a permit in accordance with subsection (a) of section 20-11a and who is serving as an intern, resident or medical officer candidate in a hospital;
- (12) Any student participating in a clinical clerkship program who has the qualifications specified in subsection (b) of section 20-11a;
- (13) Any person, otherwise qualified to practice medicine in this state except that he is a graduate of a medical school located outside of the United States or the Dominion of Canada which school is recognized by the American Medical Association or the World Health Organization, to whom the Connecticut Medical Examining Board, subject to such regulations as the Commissioner of Public Health, with advice and assistance from the board, prescribes, has issued a permit to serve as an intern or resident in a hospital in this state for the purpose of extending his education;
- (14) Any person rendering service as a physician assistant licensed pursuant to section 20-12b, a registered nurse, a licensed practical nurse or a paramedic, as defined in subdivision (14) of section 19a-175, acting within the scope of regulations adopted pursuant to section 19a-179, if such service is rendered under the supervision, control and responsibility of a licensed physician;



- (15) Any student enrolled in an accredited physician assistant program or paramedic program approved in accordance with regulations adopted pursuant to section 19a-179, who is performing such work as is incidental to his course of study;
- (16) Any person who, on June 1, 1993, has worked continuously in this state since 1979 performing diagnostic radiology services and who, as of October 31, 1997, continued to render such services under the supervision, control and responsibility of a licensed physician solely within the setting where such person was employed on June 1, 1993;
- (17) Any person practicing athletic training, as defined in section 20-65f;
- (18) When deemed by the Connecticut Medical Examining Board to be in the public's interest, based on such considerations as academic attainments, specialty board certification and years of experience, to a foreign physician or surgeon whose professional activities shall be confined within the confines of a recognized medical school;
- (19) Any technician engaging in tattooing in accordance with the provisions of section 20-266o or 20-266p and any regulations adopted thereunder;
- (20) Any person practicing perfusion, as defined in section 20-162aa;
- (21) Any foreign physician or surgeon (A) participating in supervised clinical training under the direct supervision and control of a physician or surgeon licensed in accordance with the provisions of this chapter, and (B) whose professional activities are confined to a licensed hospital that has a residency program accredited by the Accreditation Council for Graduate Medical Education or that is a primary affiliated teaching hospital of a medical school accredited by the Liaison Committee on Medical Education. Such hospital shall verify that the foreign physician or surgeon holds a current valid license in another country; or
- (22) Any person practicing as a nuclear medicine technologist, as defined in section 20-74uu, while performing under the supervision and direction of a physician licensed in accordance with the provisions of this chapter.
- (23) Any forensic pathologist who is board-certified by the American Board of Pathology, holds a current medical license in good standing in another state, and is employed to come into this state to practice solely in the Office of the Chief Medical Examiner not to exceed thirty consecutive days.**

Justification for #8:

There is a shortage of forensic pathologists in the United States. Workloads are unpredictable and even the loss of a single medical examiner will impact the ability of the office to meet its work requirements and maintain national accreditation. Given the essential and specialized nature of medicolegal death investigation, the OCME needs the ability to obtain rapid assistance. For example, a mass disaster event or loss of staffing due to illness or resignation, would result in the need for immediate staffing support to meet the work demand.



#9 Proposed (Non-OCME Statute):

Sec. 45a-318. (Formerly Sec. 45-253). Document directing or designating individual to have custody and control of disposition of deceased person's body. Funeral director's or embalmer's reliance on document. Individuals entitled to custody and control of disposition. Revocation. Form. Petition to Probate Court. Dispute re disposition of remains. Funeral director's or embalmer's reliance on funeral service agreement.

(a)(1) Any person eighteen years of age or older, and of sound mind, may execute in advance of such person's death a written document, subscribed by such person and attested by two witnesses, either: (A) Directing the disposition of such person's body upon the death of such person, which document may also designate an individual to have custody and control of such person's body and to act as agent to carry out such directions; or (B) if there are no directions for disposition, designating an individual to have custody and control of the disposition of such person's body upon the death of such person. Such disposition shall include, but not be limited to, cremation, incineration, disposition of cremains, burial, method of interment, alkaline hydrolysis and cryogenic preservation. Any such document may designate an alternate to an individual designated under subparagraph (A) or (B) of this subdivision.

(2) Any conservator of the person authorized pursuant to subdivision (5) of subsection (a) of section 45a-656 to act on behalf of a conserved person, or any agent authorized to act on behalf of a principal, including any agent authorized to act on behalf of a principal pursuant to subdivision (10) of section 1-351/, may execute in advance of such conserved person's or principal's death a written document, subscribed by such conservator or agent and attested by two witnesses, either: (A) Directing the disposition of such conserved person's or principal's body upon the death of such conserved person or principal, which document may also designate an individual to have custody and control of such conserved person's or principal's body and to act as agent to carry out such directions; or (B) if there are no directions for disposition, designating an individual to have custody and control of the disposition of such conserved person's or principal's body upon the death of such conserved person or principal. Such disposition shall include, but not be limited to, cremation, incineration, disposition of cremains, burial, method of interment, alkaline hydrolysis and cryogenic preservation. Any such document may designate an alternate to an individual designated under subparagraph (A) or (B) of this subdivision. A document executed by a conservator pursuant to this subdivision shall include provisions indicating that such document (i) is valid if the person is under conservatorship at the time of his or her death, and (ii) terminates upon the termination of the conservatorship when such termination occurs prior to the death of the conserved person.

(b) No person having the custody and control of the disposition of a deceased person's body shall knowingly provide for a disposition of the body in a manner that is inconsistent with a document executed by a person pursuant to the provisions of subsection (a) of this section or section 19a-575a, unless such disposition is approved by the Probate Court.

(c) No person may challenge a funeral director's or embalmer's decision to carry out the directions for disposition contained in a document executed for the purposes of subsection (a) or (h) of this section if the funeral director's or embalmer's decision and conduct in carrying out such directions for disposition in reliance on such document was reasonable and warranted under the circumstances.



(d) In the absence of a written designation of an individual pursuant to subsection (a) of this section, or in the event that an individual and any alternate designated pursuant to subsection (a) of this section decline to act or cannot be located within forty-eight hours after the time of death or the discovery of the body, the following individuals, in the priority listed, shall have the right to custody and control of the disposition of a person's body upon the death of such person, subject to any directions for disposition made by such person, conservator or agent pursuant to subdivision (1) or (2) of subsection (a) of this section:

(1) The deceased person's spouse, unless such spouse abandoned the deceased person prior to the deceased person's death or has been adjudged incapable by a court of competent jurisdiction;

(2) The deceased person's surviving adult children;

(3) The deceased person's surviving parents;

(4) The deceased person's surviving siblings;

(5) Any adult person in the next degree of kinship in the order named by law to inherit the deceased person's estate, provided such adult person shall be of the third degree of kinship or higher; and

(6) The Office of the Chief Medical Examiner;

(7[6]) Such adult person as the Probate Court shall determine.

Justification #9:

The OCME handles the final disposition of over 100 unclaimed remains per year following an investigation for the next-of-kin. Due to DSS investigative and probate issues, the current system can take months for case resolution. During this time, the remains need to be stored at the OCME. Due to an increase in caseload, the OCME has had to rent refrigerated tractor trailers to store these remains. The above statute change will allow the OCME to have custody of the remains allowing the length of time to final disposition (burial or cremation) to be shortened.